United Nations CRC/C/OPAC/TJK/CO/1

Convention on the Rights of the Child

Distr.: General
1 November 2017

Original: English

Committee on the Rights of the Child

Concluding observations on the report submitted by Tajikistan under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

I. Introduction

1. The Committee considered the report of Tajikistan (CRC/C/OPAC/TJK/1) at its 2224th meeting (see CRC/C/SR.2224), held on 14 September 2017, and adopted the present concluding observations at its 2251st meeting, held on 29 September 2017.

2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPAC/TJK/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined third to fifth periodic reports submitted by the State party under the Convention (CRC/C/TJK/CO/3-5) and on the report of the State party submitted under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/TJK/CO/1), both adopted on 29 September 2017.

II. General observations

Positive aspects

4. The Committee welcomes the accession by the State party to the International Labour Organization's Worst Forms of Child Labour Convention, 1999 (No. 182), in June 2005.

5. The Committee notes with appreciation:

(a) The State party's declaration upon ratification prohibiting voluntary recruitment into the Armed Forces of the State party to persons who have not attained the age of 18 years;

(b) That the Optional Protocol has the status of law in the State party;

(c) The adoption of the National Humanitarian Mine Action Law, in 2016.

* Adopted by the Committee at its seventy-sixth session (11-29 September 2017).

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III. General measures of implementation

Legislation

6. The Committee notes as positive the information contained in the State party report that the Optional Protocol takes precedence over national law, since the Constitution provides that international legal instruments recognized by the State party are an integral part of its legal system.

7. **The Committee recommends that the State party review and amend the existing legislation, in particular the Criminal Code, in order to comply with the object and purpose of the Optional Protocol.**

Coordination

8. The Committee notes the involvement of many entities in the implementation of the Optional Protocol, working within their scope of competence. However, the Committee is concerned about the lack of information about the entity in charge of coordinating the implementation of the Optional Protocol.

9. **With reference to paragraph 7 of its concluding observations under the Convention (CRC/C/TJK/CO/3-5), the Committee recommends that the State party ensure better coordination among the various ministries, agencies and committees working on developing and implementing child rights policies relevant to the Optional Protocol.**

Dissemination, awareness-raising and training

10. The Committee notes as positive the inclusion of a course on respect for human rights in times of armed conflict, for military personnel and others, in the 2013-2020 Programme for Human Rights Education. However, the Committee is concerned that training on the provisions of the Optional Protocol seems to be insufficient. It is also concerned that awareness of the Optional Protocol among the general public is low.

11. **The Committee recommends that the State party:**

(a) **Ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and in particular among children;**

(b) **Strengthen human rights training, with specific training on the provisions of the Optional Protocol for all relevant professional groups, in particular the armed forces;**

(c) **Develop awareness-raising, education and training programmes on the provisions of the Optional Protocol for relevant professional groups working for or with children, including members of international peacekeeping forces, law enforcement and immigration officers, prosecutors, lawyers, judges, social workers, medical professionals, teachers, media professionals, and local and district officials.**

Data

12. The Committee regrets the inadequate mechanism for data collection, analysis and monitoring for all areas covered by the Optional Protocol. It notes with concern that insufficient data was provided relating to the implementation of the Optional Protocol, including data on asylum-seeking, refugee, and unaccompanied migrant children who enter the State party and may have been recruited or used in hostilities abroad.

13. **The Committee recommends that the State party establish a centralized mechanism for the comprehensive collection of information and disaggregated statistics on the implementation of the Optional Protocol, and for the identification and registration of all children under its jurisdiction who may have been recruited or used in hostilities by non-State armed groups abroad, including refugee and asylum-seeking children. It also requests that it provide information on the implementation of this recommendation in its next periodic report under the Convention.**

IV. Prevention

Prevention of recruitment by non-State armed groups

14. In the light of information that families with children have been reported to have travelled from the State party to territories where armed conflicts are currently ongoing, the Committee is seriously concerned at the insufficient measures taken by the State party to prevent radicalization and recruitment into violent extremist groups.

15. **The Committee urges the State party to develop a strategy to tackle the growing problem of increased extremism, radicalization and recruitment into armed groups. It also recommends that the State party increase its efforts to ensure the rehabilitation and reintegration of children who return from territories where armed conflicts are currently in progress.**

Military schools

16. The Committee is concerned that:

(a) The curricula in military schools are not under the auspices of the Ministry of Education and Science;

(b) Children can enrol in upper secondary military school from the age of 15 and receive military training;

(c) Children in military colleges are on active military service as conscripts, are trained in the use of weapons, and, after completing their first year of studies, may participate in hostilities.

17. **The Committee recommends that the State party ensure that:**

(a) **The curricula in military schools are designed by the Ministry of Education and Science, taking into account human rights principles;**

(b) **Students of military schools are not trained in the use of weapons or deployed to any armed conflict before the age of 18.**

Human rights and peace education

18. The Committee welcomes the programmes that incorporate human rights education into the educational system, and the fact that the Ministry of Defence Military Institute also carries out regular human rights training for military personnel. The Committee is concerned, however, by the absence of information on the availability of human rights and peace education in the school curricula for children, including children in upper secondary military schools and military colleges.

19. **The Committee recommends that the State party adopt measures to strengthen peace education in the school curricula and to encourage a culture of peace and tolerance within schools, including upper secondary military schools and military colleges. It also recommends that the State party increase human rights and peace education in the training of teachers, judges, civil servants, law enforcement officers and military personnel, at every level.**

V. Prohibition and related matters

Criminal legislation and regulations in force

20. The Committee is seriously concerned that the legislation of the State party does not explicitly criminalize the recruitment and use of children under 18 years of age in hostilities, by the armed forces and non-State armed groups. The Committee is also concerned that the recruitment of children below the age of 15 has not been defined as a war crime in the State party's legislation.

21. **The Committee urges the State party to:**

(a) **Explicitly prohibit and criminalize in law the recruitment and use of children under 18 years of age in hostilities, by the armed forces, non-State armed groups and security companies;**

(b) **Define and punish the recruitment of children under the age of 15 as a war crime;**

(c) **Ensure that all military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol.**

Extraterritorial jurisdiction and extradition

22. The Committee regrets that national legislation on extraterritorial jurisdiction does not cover all the offences referred to in the Optional Protocol. It is also concerned that extradition is subject to the principle of double criminality.

23. **The Committee recommends that the State party take all measures necessary to ensure that its national legislation enables it to establish and exercise extraterritorial jurisdiction and to include in its extradition treaties the offences under the Optional Protocol. It also recommends that the State party take steps to ensure that a dual criminality requirement is not used in cases of extradition for offences covered by the Optional Protocol.**

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

24. The Committee regrets that insufficient information was provided on measures taken to identify children, including refugee and asylum-seeking children, who may have been recruited or used in hostilities abroad, as well as information on measures taken for their physical and psychological recovery and social reintegration.

25. **The Committee encourages the State party to establish an identification process for children who may have been recruited or used in hostilities abroad, and to take the necessary measures for their physical and psychological recovery and social reintegration. Such measures should include careful assessment of the situation of these children, reinforcement of the legal advisory services available for them and the provision of immediate, culturally responsive, child-sensitive and multidisciplinary assistance for their physical and psychological recovery and social reintegration.**

Landmines

26. The Committee is seriously concerned that children continue to be affected by landmines and that children affected by the explosion of mines and other consequences of the civil war do not receive adequate assistance for their physical and psychological recovery.

27. **The Committee urges the State party to strengthen mine-awareness campaigns and demining activities and ensure that all children affected by the explosion of mines and other consequences of the civil war have access to victim assistance and rehabilitation programmes.**

Assistance for physical and psychological recovery and social reintegration

28. The Committee notes the information provided by the State party delegation on cases of Tajik children who return from zones of armed conflict abroad and who may have been involved in hostilities in recent years. The Committee is concerned by the paucity of information on measures adopted to provide assistance for the physical and psychological recovery and social reintegration of those children.

29. **The Committee recommends that the State party strengthen and continue the measures necessary to provide children who may have been involved in armed conflict**

abroad with the appropriate assistance for their physical and psychological recovery, when and if identified.

VII. International assistance and cooperation

International cooperation

30. **The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with the United Nations Children's Fund (UNICEF) and other United Nations entities in the implementation of the Optional Protocol.**

Arms export and military assistance

31. **The Committee recommends that the State party ratify the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.**

VIII. Ratification of the Optional Protocol on a communications procedure

32. **The Committee recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the Optional Protocol on a communications procedure.**

IX. Implementation and reporting

A. Follow-up and dissemination

33. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the Ministry of Defence, the Supreme Assembly, the Supreme Court, and local authorities, for appropriate consideration and further action.**

34. **The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

B. Next periodic report

35. **In accordance with article 8 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.**

United Nations CRC/C/OPAC/TJK/Q/1

Convention on the Rights of the Child

Distr.: General
10 March 2017

Original: English
English, French, Russian and Spanish only

Committee on the Rights of the Child
Seventy-sixth session
11-29 September 2017
Item 4 of the provisional agenda
Consideration of reports of States parties

List of issues in relation to the report submitted by Tajikistan under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

The State party is requested to submit in writing additional, updated information (10,700 words maximum), if possible before 16 June 2017. The Committee may take up all aspects of children's rights set out in the Optional Protocol during the dialogue with the State party.

1. Please clarify which governmental entity has the primary responsibility for implementing the Optional Protocol and which mechanisms are used to ensure coordination with the relevant regional and local authorities, as well as civil society. Please provide information on the mechanisms and procedures used to collect data on the implementation of all aspects of the Optional Protocol.

2. Please provide information on any legal provision enabling 16-year-old children who are on the conscription list to be called up for military duty in exceptional circumstances, such as in a state of emergency.

3. Please provide information on schools (lyceums) operated by the Ministry of Defence and, in particular, the minimum age of entry; the number of such schools and the curricula followed, including training in the use of weapons; the rules governing school discipline; the existence of any independent complaints mechanisms; disaggregated data on children attending such schools; and the right of enrolled children to leave such schools at any time.

4. Please inform the Committee of whether the military institute mentioned in the State party report (see CRC/C/OPAC/TJK/1, para. 16) provides weapons training for students below the age of 18 years and whether such students are subjected to a similar military discipline as those above the age of 18 years. Please also provide data disaggregated by age, sex, region and ethnicity on the number of 17-year-old children enrolled in the military institute.

5. Please provide information on measures taken to provide regular training to military personnel on the Optional Protocol and on international humanitarian law and human rights in general.

6. Please clarify whether the State party explicitly criminalizes the recruitment of children by armed forces or non-State armed groups.

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7. Please inform the Committee of whether there are any refugee, asylum-seeking or unaccompanied foreign children in the jurisdiction of the State party who have or may have been involved in armed conflict abroad and whether there are mechanisms established to identify such children.

8. Please provide information on existing remedies and reparations that may be sought by child victims of offences under the Optional Protocol and on measures that have been taken to provide training to those who work with child victims.

9. Please provide information on the measures taken by the State party to prevent children or families with children from joining military groups abroad, including Afghanistan, Iraq and the Syrian Arab Republic.

10. Please provide information on whether there is extraterritorial jurisdiction, and the possibility for extradition, for crimes covered under the Optional Protocol in the State party and, if so, under which specific piece of legislation.

United Nations CRC/C/OPAC/TJK/Q/1/Add.1

Convention on the Rights of the Child

Distr.: General
21 June 2017
English
Original: Russian
English, French, Russian and Spanish only

Committee on the Rights of the Child
Seventy-sixth session
11-29 September 2017
Item 4 of the provisional agenda
Consideration of reports of States parties

List of issues in relation to the report submitted by Tajikistan under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Addendum

Replies of Tajikistan to the list of issues*

[Date received: 29 May 2017]

* The present document is being issued without formal editing.

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Replies to the questions relating to the initial report of the Republic of Tajikistan on measures taken in implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Paragraph 1

1. In the Republic of Tajikistan, the implementation of the Optional Protocol is mainly the responsibility of the Ministry of Defence, the Ministry of Internal Affairs, the Ministry of Education and Science, the Ministry of Health and Social Protection, the Ministry of Labour, Migration and Employment, the Committee for Youth, Sport and Tourism, the judicial system, the Office of the Public Prosecutor and other interested bodies, each within its sphere of competence. The Ministry of Education and Science is designated to be the authorized State body for the protection of children's rights. The principal governmental entity coordinating the activities of the central executive bodies, local government authorities, self-governing bodies of towns and villages, enterprises, institutions and other organizations responsible for implementing the international obligations of Tajikistan with regard to children's rights is the Government Commission on Children's Rights, a standing inter-agency body, which, in line with its mandate, implements government policy on protecting children's rights and interests and is responsible for all questions relating to children's education and upbringing.

2. There are a number of civil society institutions in Tajikistan that focus on issues relating to the Optional Protocol, which are also covered by the media. Mechanisms are being introduced to ensure that there is coordination between government entities and civil society organizations in carrying out periodic assessments of the progress made in implementing the Optional Protocol. The country does not currently have any registered specialized human rights institutions at the national level that have the specific objective of monitoring the implementation of the Optional Protocol. In practice, however, this role is performed by a large number of registered independent voluntary associations and human rights organizations that engage in activities aimed at protecting the rights of individuals, including children and young people under the age of 18 years. They include the Legal Initiative foundation, the national Save the Children organization, the Tajikistan office of Save the Children UK and others.

Paragraph 2

3. Under article 19 of the General Military Duty and Military Service Act, a male citizen aged between 18 and 27 years who is or should be registered for military service is liable to be called up to serve in the armed forces of Tajikistan. The country's legislation does not provide for the conscription of 16-year-old children, even in situations of emergency.

Paragraph 3

4. In order to give boys an all-round education while preparing them for military service, an upper secondary school has been established by the Ministry of Defence to provide boys with military training, in addition to their normal studies, that will teach or enhance military skills.

5. Under a programme operated by the Ministry of Education and Science, entry into the military school for youths between 15 and 16 years of age who hold a Tajik passport is voluntary. A young man who has successfully completed his education in the military school is entitled, on reaching the age of 18 years, to enter a professional military academy without taking an examination.

Paragraph 4

6. Under the educational programme provided in the Ministry of Defence Military Institute, instruction is given in the use of various combat weapons.

Paragraph 5

7. With a view to implementing the 2013-2020 Programme for Human Rights Education, which was approved under a government decision of 12 December 2012, the Coordinating Council of the Commissioner for Human Rights of Tajikistan drew up, approved and introduced comprehensive educational programmes to ensure that the subject of human rights is taught in all such establishments, with a view to improving the level of education among senior personnel, in line with the requirements of the country's legislation and international standards and with due regard for the principles, aims and goals of the second phase (2010-2014) of the World Programme for Human Rights Education. The programmes incorporate human rights education into the educational system, with preparatory courses and further training for teachers, judges, civil servants, law enforcement officers and military personnel at every level. In particular, in order to ensure that military personnel get regular human rights training, such training is currently provided by the Ministry of Defence Military Institute. The importance of the Optional Protocol is recognized with the introduction of a separate subject, entitled "Respect for human rights in time of armed conflict".

Paragraph 6

8. Tajikistan does not engage in the unlawful recruitment of children into the armed forces. There are no non-State armed groups.

Paragraph 7

9. Foreign refugee, asylum-seeking and unaccompanied children are not subjected to discrimination. Measures are taken to prevent such children from entering into military conflict or joining armed groups abroad.

Paragraph 8

10. Under article 21 of the Constitution, victims' rights are protected by law. Pursuant to article 42 of the Code of Criminal Procedure, the State guarantees victims access to justice and compensation for damage suffered. A person may also launch a civil complaint for compensation for moral damage. In addition to the guarantee of judicial protection provided by the Constitution and other legislation, Tajikistan has assumed a range of international human rights commitments, under which it is obliged to provide legal assistance at every stage of criminal proceedings. To that end, a framework for the provision of free legal assistance was approved under a government decision of 2 July 2015. The framework provides for free legal assistance for various categories of citizen, including minors who do not have a tutor or guardian, managed under a project of the United Nations Development Programme entitled "Supremacy of the law and access to justice", with financial support from the Swiss Agency for Development and Cooperation.

11. The Criminal Code contains a number of provisions to punish acts involving illegal recruitment into the armed forces of Tajikistan. The actions, or failure to act, of a person in specific circumstances may be classified as an offence under separate articles of the Code: article 314 (Abuse of authority), article 316 (Improper exercise of authority), article 317 (Misappropriation of official powers), article 323 (Falsification of documents by an individual) and article 322 (Negligence).

12. The 2013-2020 Programme for Human Rights Education is currently being implemented. In addition, a programme to reform the child justice system 2017-2021 has been developed, which will involve a careful consideration of the existing legislation, and its subsidiary regulations, such as instructions, orders and decisions, with a view to reforming the justice system for children, including children who are witnesses or victims of offences and violence. That has led to a number of other relevant amendments to the law and the establishment of a data-collection mechanism on children in conflict with the law and children who are witnesses or victims of offences and violence. Plans for mandatory professional training in human rights for officers of law enforcement agencies and prison establishments have also been developed and put into effect.

Paragraph 9

13. The Government is taking steps to prevent children or families with children joining military groups abroad. To that end, amendments have been made to the Criminal Code, providing for the exemption from criminal liability of persons who have voluntarily refused to participate unlawfully in armed conflict or military action in the territory of other States.

14. Campaigns to raise public awareness have been mounted on a regular basis.

15. In the territory of the Syrian Arab Republic, Iraq and other States where armed conflicts are currently in progress, there are 234 families among a total of 840 Tajik nationals. These families comprise 309 men, 279 women, 110 girls and 142 boys. As a result of measures taken between 2015 and 2017, 19 families, comprising 17 men, 21 women, 21 girls and 20 boys, have been repatriated to Tajikistan. Only 61 Tajik nationals are participating or intending to participate in the armed conflicts in the territory of Iraq or the Syrian Arab Republic. Measures to repatriate other families are in hand.

Paragraph 10

16. There is no separate article in the Criminal Code providing for criminal liability for the recruitment or use of persons under the age of 18 years in military activity. However, article 401 (1) of the Code provides for criminal liability for the unlawful involvement or participation of Tajik nationals and stateless persons in armed groupings, armed conflict or military activities in the territory of other States. The recruitment, involvement or use of persons under 18 years of age in military activities is covered by that article.

17. The question of the extradition of offenders depends on the specific circumstances of each case and is determined on the basis of various conventions and agreements, including the United Nations Convention against Transnational Organized Crime and bilateral extradition agreements.